



JAN 30 2006

DIRECTOR'S MEMORANDUM NO. #07-06

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND DIRECTORS  
FOR VETERANS' EMPLOYMENT AND TRAINING

FROM:   
GORDON J. BURKE, JR.  
Director, Operations and Programs

SUBJECT: Notification of Changes to Veterans' Preference Eligibility  
Criteria

I. **Purpose:** To notify Veterans' Employment and Training Service (VETS) staff of changes to the eligibility criteria in Title 5, Sec. 2108, United States Code (U.S.C.), for veterans' preference entitlement in hiring or reduction in force activities within Federal civil service.

II. **Reference:** The National Defense Authorization Act of 2006 (Department of Defense), Public Law (P.L.) 109-163, Sec. 1111 and 1112, January 6, 2006.

III. **Background:** Title 5, Sec. 2108, U.S.C., provides the definitions for veteran, disabled veteran and preference eligible. The definition of veteran was modified by P.L. 109-163 resulting in a corresponding modification to the definition of preference eligible.

IV. **New Language:** The following is the new language in Title 5, Sec. 2108, U.S.C. based on these modifications. The changed sections are **bolded** and *italicized* for emphasis.

"Sec. 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title-

(1) "veteran" means an individual who-

- (A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955;
- (B) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before October 15, 1976, not including service under section 12103(d) of title 10 pursuant to an enlistment in the Army

National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

- (C) served on active duty as defined by section 101(21) of title 38 in the armed forces during the period beginning on August 2, 1990, and ending on January 2, 1992; *or*
- (D) *served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom;*

and who has been *discharged or released from active duty in* the armed forces under honorable conditions;

- (2) “disabled veteran” means an individual who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Department of Veterans Affairs or a military department;
- (3) “preference eligible” means, except as provided in paragraph (4) of this section—
  - (A) a veteran as defined by paragraph (1)(A) of this section;
  - (B) a veteran as defined by paragraph (1)(B), (C), *or (D)* of this section;
  - (C) a disabled veteran;
  - (D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;
  - (E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;
  - (F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—
    - (i) her husband is totally and permanently disabled;
    - (ii) she is widowed, divorced, or separated from the father and has not remarried; or
    - (iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and
  - (G) the mother of a service-connected permanently and totally disabled veteran, if—
    - (i) her husband is totally and permanently disabled;
    - (ii) she is widowed, divorced, or separated from the father and has not remarried; or
    - (iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed;

but does not include applicants for, or members of, the Senior Executive Service, the Defense Intelligence Senior Executive Service, the Senior Cryptologic

Executive Service, or the Federal Bureau of Investigation and Drug  
Enforcement Administration Senior Executive Service;

- (4) except for the purposes of chapters 43 and 75 of this title, “preference eligible” does not include a retired member of the armed forces unless—
  - (A) the individual is a disabled veteran; or
  - (B) the individual retired below the rank of major or its equivalent; and
- (5) “retired member of the armed forces” means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.”

**V. OPM Requirements:** The Office of Personnel Management (OPM) is currently in the process of modifying Title 5, Code of Federal Regulations (CFR), the VetGuide, the VetsInfoGuide, and their Delegated Examining Unit Handbook to incorporate the changes in veterans’ preference eligibility required by P.L. 109-163. Although the changes to these publications have not yet been made by OPM, the changes to veterans’ preference eligibility are effective January 6, 2006, the date the law was signed.

**VI. Action Required:** Regional Administrators for VETS should ensure that all assigned staff are aware of the changes to veterans’ preference eligibility provided in this DM.

**VII. Inquiries:** Any question concerning this memorandum should be directed to Pat Harvey at (304) 528-5873 or e-mail at [harvey-patrick@dol.gov](mailto:harvey-patrick@dol.gov).

**VIII. Expiration Date:** When superseded or rescinded.